

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 1818 - SB 1805

February 26, 2020

SUMMARY OF BILL: Specifies that the offense of criminal simulation includes possession of any equipment, instrument, machine, or supplies designed for use, intended for use, or used to counterfeit the check of another person by taking the account and routing numbers from the other person's valid check and counterfeiting a new check containing the valid numbers.

Requires licensed check cashing companies and other companies that cash payment instruments for a consideration to record customer information and perform certain check verifications. Requires the license of an entity that cashes a check in violation of such requirements be suspended for 30 days.

Creates a Class A misdemeanor offense for any employee of a licensed check cashing company or other company that cashes payment instruments for a consideration to cash a payment instrument if the employee knows or should know the payment is fraudulent or otherwise invalid. Creates a Class C misdemeanor offense for any employee of a licensed check cashing company or other company that cashes payment instruments for a consideration to cash a payment instrument if certain information is not collected and reviewed.

Requires any consideration received for a payment instrument cashed by such employees be forfeited to the state general fund.

ESTIMATED FISCAL IMPACT:

Increase State Revenue –

Exceeds \$298,800/FY20-21/Department of Financial Institutions
Exceeds \$293,400/FY21-22 and Subsequent Years/
Department of Financial Institutions
Exceeds \$32,600/FY20-21 and Subsequent Years/
Administrative Procedures Division
Exceeds \$500/FY20-21 and Subsequent Years/General Fund

Increase State Expenditures –

Exceeds \$298,800/FY20-21/Department of Financial Institutions
Exceeds \$293,400/FY21-22 and Subsequent Years/
Department of Financial Institutions
Exceeds \$32,600/FY20-21 and Subsequent Years/
Administrative Procedures Division

Assumptions:

Criminal Offenses

- Pursuant to Tenn. Code Ann. § 39-14-115(b), criminal simulation is punishable as theft pursuant to Tenn. Code Ann. § 39-14-105, but in no event is criminal simulation less than a Class E felony offense.
- Any impact to state incarceration resulting from specifying instruments used in criminal simulation is estimated to be not significant.
- Any increase in the caseloads of the court system resulting from the creating of the Class A and Class C misdemeanor offenses can be absorbed within the existing judicial resources.
- There will not be a sufficient number of Class A or Class C misdemeanor prosecutions for state or local government to experience any significant increase in revenue or expenditures.

Compliance Enforcement

- Based on information provided by the Department of Financial Institutions (DFI), the proposed legislation will require an increase in examination time for compliance examiners to ensure that the required demographic and transaction information is collected and verified.
- The proposed legislation will result in the addition of two Loan Examiner 4 positions to complete the more extensive examinations.
- The recurring salary and benefits for each of the positions is estimated to be \$69,675 (\$54,120 salary + \$ 15,555 benefits).
- The proposed legislation will result in the addition of one Associate Counsel position to process additional enforcement actions resulting from violations of the additional requirements.
- The recurring salary and benefits for the position is estimated to be \$80,156 (\$63,108 salary + \$ 17,048 benefits).
- Additionally, each of these positions will require recurring funding for supplies, training, travel, etc. estimated to be \$5,000 per position.
- The one-time increase in state expenditures in FY20-21 for each position is estimated to be \$1,800 for computers.
- The proposed legislation will result in at least 50 additional requests for administrative hearings resulting from enforcement actions.
- The average cost billed to DFI by the Administrative Procedures Division of the Secretary of State per administrative case is \$652.
- The proposed legislation will result in a recurring increase in state expenditures in FY20-21 and subsequent years estimated to exceed \$32,600 (\$652 x 50) for administrative hearings.
- The proposed legislation will lead to a corresponding recurring increase in state revenue and increase in state expenditures in FY20-21 and subsequent fiscal years estimated to exceed \$32,600 to the Administrative Procedures Division.

- This analysis estimates each case will require a court reporter for a full day and transcripts at a rate of \$525.
- The proposed legislation will result in a recurring increase in state expenditures in FY20-21 and subsequent years estimated to exceed \$26,250 ($\525×50).
- The total one-time increase in state expenditures in FY20-21 resulting from the proposed legislation is estimated to exceed \$298,756 [$(\$69,675 \times 2) + \$80,156 + (\$5,000 \times 3) + (\$1,800 \times 3) + \$32,600 + \$26,250$].
- The total recurring increase in state expenditures in FY21-22 and subsequent years resulting from the proposed legislation is estimated to exceed \$293,356 [$(\$69,675 \times 2) + \$80,156 + (\$5,000 \times 3) + \$32,600 + \$26,250$].
- DFI is a self-funded entity; therefore any increase in revenue will be utilized to facilitate examinations conducted of such entities. The proposed legislation will result in a recurring increase in revenue, and an equal corresponding increase in expenditures, for DFI estimated to exceed \$298,756 in FY20-21 and \$293,356 in FY21-22 and subsequent fiscal years.
- This analysis assumes the minimum fee associated with cashing such payment instruments is \$10 per instrument.
- The proposed legislation will result in a recurring increase in state revenue in FY20-21 and subsequent fiscal years resulting from forfeitures of consideration in violation of the proposed legislation estimated to exceed \$500 ($\10×50) to the General Fund.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

/amj